

IRFLP 201 Commencement of Action

Idaho Rules of Family Law Procedure Rule 201. Commencement of Action.

A. Commencement of a family law proceeding. A family law action is commenced by filing a petition with the clerk of the court. The party filing the initial petition shall be designated as the petitioner and any party against whom it is filed shall be designated as the respondent. A petition shall not be filed unless and until the initial petitioner furnishes to the clerk a completed family law case information sheet on a form adopted by the Supreme Court and furnished by the clerk. This family law case information sheet shall be exempt from disclosure according to [I.C.A.R. 32\(d\)](#) [1]. No claim, controversy or dispute may be submitted to any court in the state for determination or judgment without filing a petition as provided in these rules; nor shall any judgment or decree be entered by any court without service of process upon all parties affected by the judgment or decree in the manner prescribed by these rules. During the pendency of an action, parties who are not represented by counsel shall keep the court apprised of their current mailing addresses. Each attorney and unrepresented party shall notify the court within fourteen (14) days of any changes in the party's mailing address.

B. Commencement of a protection order proceeding. An action for a domestic violence protection order must be commenced by the filing of a petition based on sworn Affidavit in the form approved by the Supreme Court and may not be filed unless accompanied by information in whatever form required by the court to allow entry of the protection order into the Idaho Law Enforcement Telecommunications System (to be transferred by the court to the appropriate law enforcement agency with any signed order). A copy of this information form shall not be maintained in the court file. Such action may be commenced or defended on behalf of a minor as set forth in [Rule 114](#) [2].

C. Proceedings to modify child custody, child support and spousal maintenance. A proceeding to modify child custody, child support, or spousal maintenance (alimony) is commenced by filing a petition in the original action. The petition shall be in a form similar to an original petition and shall be served upon all parties entitled to service along with (1) a summons and (2) any notices, forms and orders issued by the court at the time of filing of the motion. The method of service and return thereon shall be the same as for an original action and service shall be on the opposing party rather than on the previous attorney of record for the party. All averments of substantial and material changes in circumstances supporting a motion to modify child custody shall be stated with particularity. The petition shall be adjudicated in the same manner as an original proceeding, but the filing of a petition to modify a child custody, child support or spousal maintenance judgment shall not be deemed the commencement of an action under Idaho Code Section 5-404 and there shall be no right for an existing party in the lawsuit to disqualify the judge without cause pursuant to Rule 107 if that judge had previously presided in the lawsuit and had not been disqualified. The petition to modify shall be resolved by the entry of a judgment as provided in Rule 803.B. All orders issued in adjudicating the motion to modify prior to the entry of the judgment are interlocutory orders.

D. Filing Fee- Waiver. The filing fee prescribed by Appendix "A" to these rules must be paid before the filing of a pleading or motion listed in the filing fee schedule. Any waiver of the filing fee shall be made by the court upon verified application of a party which shall require no filing fee. Provided, the filing fees shall be automatically waived in any case in which a party is represented by an attorney under the Idaho Law Foundation Volunteer Lawyers Program, the University of Idaho Legal Aid Clinic, the Idaho Legal Aid Program. or an attorney under a private attorney contract with Legal Aid.

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Links:

[1] <http://www.isc.idaho.gov/icar>

[2] <http://www.isc.idaho.gov/irflp114>